

MENKEN SIMPSON & ROZGER LLP

80 PINE STREET, 33RD FLOOR
NEW YORK, NEW YORK 10005

TELEPHONE: (212) 509-1616
FACSIMILE: (212) 509-8088
WWW.NYEMPLOYEELAW.COM

BRUCE E. MENKEN
SCOTT SIMPSON
JASON J. ROZGER ▲
BRENNAN RABINOWITZ
RAYA F. SAKSOUK

▲ ALSO ADMITTED NJ
ALAN SERRINS
OF COUNSEL

October 16, 2023

Via ECF

Hon. Joan M. Azrack, U.S.D.J.
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: *Agudelo v. Recovco Mortgage Management LLC et al.*, No. 22 Civ. 4004

Dear Judge Azrack:

On behalf of the Plaintiffs and putative class, I write pursuant to this court's October 11, 2023 order seeking a status report on the parties' position on their pending motion for preliminary approval.

Putative class counsel has learned the Chapter 7 Trustee in the bankruptcy matter, *In re: Sprout Mortgage LLC*, Case No. 23-72433 (REG), has moved to revoke the parties' settlement agreement in this action. *Id.* at D.E. 172. The undersigned understands it is likely to be summarily approved by order of the presiding bankruptcy court judge on or about November 15, 2023, the date the motion is scheduled to be heard. Therefore, because the parties' settlement agreement is for all intents and purposes a nullity, the parties' motion for preliminary approval is moot and no action on it is required.

Accordingly, Plaintiffs in this case seek a prompt order from Your Honor permitting them to continue the litigation of this case against each and every one of the other Defendants in the caption, exclusive of Sprout Mortgage LLC, the aforementioned debtor in the above bankruptcy proceeding. Plaintiffs also propose the execution and filing of a Stipulation of Voluntary Dismissal dismissing Plaintiffs' claims against Sprout Mortgage LLC pursuant to Rule 41(1)(A)(ii).¹

¹ I believe the presiding bankruptcy court judge will need to approve the filing of a Stipulation of Voluntary Dismissal here, which will likely be rubberstamped because such dismissal is consistent with the stay that is currently in place there.

I spoke to Marc Wenger, Defendants' counsel, on October 11 and communicated with him by email today. He advised that he cannot respond to this proposal until the end of next week. Plaintiffs object to such a delay and again wish to move this case forward with due speed.

Respectfully submitted,

/s/ Bruce E. Menken
Bruce E. Menken

cc: All counsel (by ECF)